

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

EXHIBIT 1

|  |   |                           |
|--|---|---------------------------|
| DEREK W. CORNELIUS and SI03, INC.,               | ) |                           |
|  | ) |                           |
| Plaintiffs,                                      | ) |                           |
|  | ) | Cause No. 1:09-CV-72-SNLJ |
| v.   | ) |                           |
|  | ) | JURY TRIAL DEMANDED       |
| RYAN DELUCA d/b/a Bodybuilding.com,              | ) |                           |
| BRYNA MATTHEWS DELUCA d/b/a                      | ) |                           |
| Bodybuilding.com, BODYBUILDING.COM,              | ) |                           |
| L.L.C., a Delaware limited liability company,    | ) |                           |
| MOLECULAR NUTRITION, LLC, a Florida              | ) |                           |
| limited liability company, M.A.N. SPORTS, INC.,  | ) |                           |
| a California corporation, DESIGNER               | ) |                           |
| SUPPLEMENTS, INC., a New York corporation,       | ) |                           |
| GASPARI NUTRITION, INC., a New Jersey            | ) |                           |
| corporation, THERMOLIFE INTERNATIONAL,           | ) |                           |
| LLC, an Arizona limited liability company, SAN   | ) |                           |
| CORP., a California corporation, UNIQUE          | ) |                           |
| NUTRITION, INC., an Illinois corporation,        | ) |                           |
| ENGINEERED SPORTS TECHNOLOGY, LLC, a             | ) |                           |
| Florida limited liability company, PALO ALTO     | ) |                           |
| LABORATORIES, INC., a Florida corporation,       | ) |                           |
| SNS NUTRITION, BODYWELL NUTRITION,               | ) |                           |
| LLC, a Florida corporation, ISS RESEARCH,        | ) |                           |
| LLC, a North Carolina limited liability company, | ) |                           |
| ERGOPHARM, INC., an Illinois corporation,        | ) |                           |
| BETANCOURT NUTRITION, INC., a Florida            | ) |                           |
| corporation, NIMBUS NUTRITION, LLC, a Florida    | ) |                           |
| limited Liability company,                       | ) |                           |
|  | ) |                           |
| Defendants.                                      | ) |                           |

**SECONDED AMENDED COMPLAINT**

COME NOW plaintiffs, by and through counsel, and for their cause of action against defendants, and each of them, state to the court as follows:

**THE PARTIES**

1. Plaintiff Derek W. Cornelius (“Cornelius”) is, and at all times relevant herein was, an individual residing in the County of Cape Girardeau, State of Missouri.

2. Plaintiff SI03, Inc. (“SI03”) is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of Delaware with its principal place of business in the County of Cape Girardeau, State of Missouri.

3. Defendant Ryan DeLuca is, and at all times relevant herein was, a citizen and resident of the State of Idaho. That from November 10, 1998, up through June 8, 2006, defendant Ryan DeLuca did business as Bodybuilding.com.

4. Defendant Bryna Matthews DeLuca is, at all times relevant herein was, a citizen and resident of the State of Idaho. That from November 10, 1998, up through June 8, 2006, defendant Bryna Matthews DeLuca did business as Bodybuilding.com.

5. Defendant Bodybuilding.com, LLC, is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in the State of Idaho; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

6. Defendant Molecular Nutrition, LLC (“Molecular Nutrition”) is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of Florida with its principal place of business in the State of Florida; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

7. Defendant M.A.N. Sports, LLC (“MAN Sports”) is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of California with its principal place of business in the State of Colorado; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

8. Defendant Designer Supplements Inc. (“Designer”), is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of New York with its principal place of business in the State of New York; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

9. Defendant Gaspari Nutrition, Inc. (“Gaspari”), is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of New Jersey with its principal place of business in the State of New Jersey; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

10. Defendant Thermolife International LLC (“Thermolife”), is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of Arizona with its principal place of business in the State of Arizona; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

11. Upon information and belief, defendant SAN Corporation (“SAN”) is, and at all times relevant herein, was a corporation organized and existing under the laws of the State of Nevada with its principal place of business in the State of California; that at all times relevant herein, defendant

operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

12. Defendant Unique Nutrition, Inc. (“Unique”) is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of Illinois with its principal place of business in the State of Illinois; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

13. Defendant Engineered Sports Technology, LLC (“EST”) is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of Florida with its principal place of business in the State of Florida; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

14. Upon information and belief, defendant Palo Alto Laboratories, Inc. (“Palo Alto”) is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of Florida with its principal place of business in the State of Florida; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

15. Upon information and belief, defendant SNS Nutrition (“SNS”) is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of California with its principal place of business in the State of California; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

16. Defendant Bodywell Nutrition, LLC (“Bodywell”) is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of Florida with its principal place of business in the State of Florida; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

17. Upon information and belief, defendant ISS Research, LLC (“ISS”) is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of North Carolina with its principal place of business in the State of North Carolina; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

18. Upon information and belief, defendant Ergopharm, Inc. (“Ergopharm”) is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of Illinois with its principal place of business in the State of Illinois; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

19. Upon information and belief, defendant Betancourt Nutrition, Inc. (“Betancourt”) is, and at all times relevant herein was, a corporation organized and existing under the laws of the State of Florida with its principal place of business in the State of Florida; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

20. Upon information and belief, defendant Nimbus Nutrition, LLC (“Nimbus”) is, and at all times relevant herein was, a limited liability company organized and existing under the laws of the State of Florida with its principal place of business in the State of Florida; that at all times relevant herein, defendant operated by and through its authorized agents, representatives and employees who, at all times relevant herein, acted within the scope and course of their agency, representation and employment.

21. SI03 is, and at all times relevant herein was, in the business of the manufacture and marketing of a line of nutraceutical products, specifically utilized for athletic enhancement, equilibrium, fat loss, and maintaining basic nutrition.

22. Cornelius is an independent consultant for SI03, and was previously the founder and owner of Syntrax Innovations, Inc. (“Syntrax Innovations”) which was in the same industry as SI03.

### **JURISDICTION**

23. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. § 1331 as to Count I, and pursuant to 28 U.S.C. §§ 1332, 1367 as to the remaining state law counts.

24. This Court has personal jurisdiction over each of the defendants in that each of the defendants transacted business within the State of Missouri and published or permitted to be published libelous statements within the State of Missouri.

25. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) in that each defendant resides in this District for purpose of venue under 28 U.S.C. § 1391(c) because each defendant is a corporation that is subject to personal jurisdiction within this District; and also pursuant to 28 U.S.C. § 1391(b)(2) in that a substantial part of the events giving rise to the claims occurred in

this District because the statements made by each defendant were published on an Internet forum published on a commercial website that sells products to residents of this District.

**JURY TRIAL DEMANDED**

26. Plaintiffs hereby demand trial by jury on all counts and all issues triable by jury.

**FACTS COMMON TO ALL COUNTS**

27. Syntrax Innovations developed the trademark Syntrax as a house mark for most of its products (“the Syntrax Mark”).

28. On or about January 2, 2004, Syntrax Innovations sold most of its assets, including all of its trademarks and the goodwill associated therewith, to SI03.

29. Defendants Ryan Deluca and Bryna Matthews Deluca d/b/a Bodybuilinding.com and Bodybuilding.com, LLC (collectively “the Bodybuilding defendants”), operate an internet site at www.bodybuilding.com which is a market place for the sale of nutraceuticals such as those manufactured by SI03 and all of the other defendants.

30. As part of that internet site, there are public forums which permit members of the public, including representatives of competitors, to post comments and discuss available products (hereinafter “the Bodybuilding.com Forums”).

31. The Bodybuilding defendants rely upon the Bodybuilding.com Forums to direct members of the public to other parts of its website where nutraceutical products are sold.

32. The Bodybuilding defendants have appointed moderators (and continue to maintain a slate of moderators) for Bodybuilding.com Forums who act as representatives of the Bodybuilding defendants to control and edit the content on the Bodybuilding.com Forums.

33. Upon information and belief, one said moderator who uses the handle “INGENIUM” was acting within the scope and course of his or her representation for the Bodybuilding defendants in making posts to the Bodybuilding.com Forums.

34. The Bodybuilding defendants encourage their own employees, including but not limited to their customer service representatives, to actively post in Bodybuilding.com Forums whenever possible.

35. Certain competitors of plaintiffs, with the assistance of the Bodybuilding defendants, engaged in a pattern and practice to repeatedly post libelous statements in the Bodybuilding.com Forums which were false and tended to expose plaintiffs to hatred, contempt or ridicule, and which mischaracterize the nature of SI03’s products.

36. On May 2, 2007 at 8:37 a.m., “INGENIUM” posted to the Bodybuilding.com Forums the libelous statement: “despite SI03’s constant matrix pimping in CASEIN threads, matrix is not a micellar casein product,” which misrepresents the nature, characteristics, and/or qualities, of SI03’s products.

37. This and other such statements were published on the Bodybuilding.com Forums and were capable of being read by members of the public.

38. The reputations of the plaintiffs were thereby damaged.

**Molecular Nutrition**

39. Molecular Nutrition is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

40. Molecular Nutrition utilizes the services of representatives who make various posts on the Bodybuilding.com Forums under various pseudonyms.



41. Upon information and belief, one said representative who uses the handle "Aeternitatis" was acting within the scope and course of his or her representation for Molecular Nutrition in making such posts.

42. On May 11, 2006 at 9:12 p.m., "Aeternitatis" posted to the Bodybuilding.com Forums the libelous statement: "Syntrax has secret operatives? Could it Be? ... I just think everyone should be aware of the dishonest tactics used by this company. And there's even more stuff you don't know about."

43. On April 4, 2007 at 11:53 a.m., "Aeternitatis" posted to the Bodybuilding.com Forums the following libelous statement with regard to Matrix, a product developed by plaintiff Syntrax: "IMO, it's not so much the HFCS that people are worried about but the recent reports of possible use of contaminated/spoiled protein powder. I think most people remember the threads/posts about Creative Compounds attempting to import protein that was unfit for human consumption."

46. Molecular Nutrition was at fault for publishing such statements.

47. Upon information and belief, Molecular Nutrition has made other similar statements on the Bodybuilding.com Forums.

### **MAN Sports**

48. MAN Sports is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

49. MAN Sports utilizes the services of representatives who make various posts on the Bodybuilding.com Forums under various pseudonyms.

50. Upon information and belief, two said representatives who use the handles "Androgenic" and "dwm230000" were acting within the scope and course of their representation for MAN Sports in making such posts.

51. On February 19, 2007 at 9:46 a.m., "Androgenic" posted to the Bodybuilding.com Forums the following libelous statement: "...The path that syntrax was on, with that and the injectible prohormones, etc. Questioning ethics is the tip of the iceberg. Then the 6 million names DC posts under and games that have been played with ownership, products, and posts here...it is morally reprehensible to support such a company. I believe that I have nothing against the reps. Some of them seem quite good. The company itself is shameless. Since the `new ownership/oldownership' and renamed company...back to the old name...look at Hyper H, is that ethical? A company that will do anything to turn a buck, that will do illegal things and immoral things...you will support???? I have nothing but contempt for them ..."

52. On April 3, 2007 at 11:30 a.m., "Androgenic" posted to Bodybuilding.com Forums the following libelous statement: "No, the company is Satan embodied. Lawsuits, crime, death, illegal shell companies, etc. (Are you missing this)... They are the devil..."

53. On April 1, 2007 at 7:35 a.m., "Androgenic" posted to the Bodybuilding.com Forums the following libelous statement: "If you search syntrax and even look through some of my posts in that thread you'll see Derek Cornelius got sued for death damages of people using lipkinetix. He knew it was unsafe and continued to push out product. He claims being a strong Christian, but steals 6-oxo, and X-Factor which are patented and copied them for sale. He has 8 shell companies due to many lawsuits. The SiO3 thing was invented so he could continue to come out with products and be associated with a company, while syntrax claimed bankruptcy due to lawsuit, so he wouldn't have to pay...all the while running the SAME company. He's been banned from this board and he continues to pop under more than 100 different aliases in syntrax threads...The guy is sick. I would never give him a dime."

54. On April 1, 2007 at 8:06 a.m., "Androgenic" posted to the Bodybuilding.com Forums the following libelous statement: "Plus you get the benefit and certainty of a good company. Syntrax,

Thrive, SI03, Zima, Forge Nutrition, Creative Compounds, etc., etc. These are all part of beautiful Derek Cornelius Umbrella of lies. He's under countless lawsuits...including the whole death/liver thing (no big right)."

55. On April 1, 2007, at 9:12 a.m., "Androgenic" posted to the [www.bodybuilding.com](http://www.bodybuilding.com) forum board the following libelous statement: "How they continue to sell products given what they've done is beyond me...especially on this board. Where DC is banned. Think about the lawsuit with lipokinetix. The lawsuit over Arachidonic Acid. Thrive, Zima, SI03, Forge nutrition, creative compounds, syntrax, etc.etc. all the names for the same company. Seriously, just stop it."

56. On April 1, 2007 at 12:58 p.m., "Androgenic" posted to the Bodybuilding.com Forums the following libelous statement: "DC posts under hundreds of pseudonyms, is getting sued by multiple companies for theft. He has 8 shell companies and continues to 'try' and reemerge on here with it. Find out why SI03 was started, evading money to paid out from health/death damages. Companies not listing ingredients, changing spellings, prop. Blends, not containing the actives, and written deceptive pseudoscience."

57. On October 4, 2006 at 8:31 a.m., "dwm230000" posted to the Bodybuilding.com Forums the following libelous statement: "For starters, they have a bunch of shills (fake usernames) posting on the forum to promote their products, and always bash the products of the other companies...It's not enough for Syntrex to just use the shills to promote their products. They will even go to the extreme of attempting to spread about ingredients they do not use in their products."

58. MAN Sports was at fault for publishing such statements.

59. Upon information and belief, MAN Sports has made other similar statements on the Bodybuilding.com Forums.

**Designer**

60. Designer is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

61. Designer utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

62. Upon information and belief, three said representatives who use the handles "NATHAN518", "uhockey", and "haiz69" were acting within the scope and course of their representation for Designer in making such posts.

63. On August 22, 2006 at 12:52 p.m., "NATHAN518" posted to the Bodybuilding.com Forums the following libelous statement: "just seems their [sic] could be some liability issues recommending products with POTENTIALLY dangerous ingredients to people under 18...that's all. Obviously SYNTRAX is cool with it though."

64. On August 8, 2006 at 4:14 a.m., "NATHAN518" posted to the Bodybuilding.com Forums the following libelous statement: "jkeith has confirmed that all these shills use the same proxy. Are you so blinded by the free Nectar that you don't see all these pathetic shills that pop up in every Syntrax thread?"

65. On August 4, 2006 at 2:45 p.m., "NATHAN518" posted to the Bodybuilding.com Forums the following libelous statement: "Syntrax has many many shills."

66. On April 4, 2007 at 8:35 a.m., "uhockey" posted to the Bodybuilding.com Forums the following libelous statement: "Oh wait, no, being a worthless shill without morals would indicate that fact doesn't get in the way of pushing your garbage product."

67. On January 4, 2008 at 2:05 p.m. "haiz69" posted to the www.bodybuilding.com forum board the following libelous statement: "Ugh. I suggest everyone just stays away from Syntrax products in general. They have no morals..."

78. Designer was at fault for publishing such statements.

79. Upon information and belief, Designer has made other similar statements on the Bodybuilding.com Forums.

**Gaspari**

80. Gaspari is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

81. Gaspari utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

82. Upon information and belief, one said representative who uses the handle "deserusan" was acting within the scope and course of his or her representation for Gaspari in making such posts.

83. On December 31, 2006 at 10:39 a.m. "deserusan" posted to the Bodybuilding.com Forums the following libelous statement: "Agreed...but here is a primer on Syntrax just for sh\*ts and giggles: 1. They put out a product which elicited hepatitis like symptoms and caused liver failure in multiple subjects which has been documented in peer reviewed journals. 2. They are notorious for patent infringement which includes lengthy legal battles with SANN and Molecular Nutrition. 3. Nectar has failed label claims with regards to carb content which was usually 3-4 times higher than actually stated. 4. Their 'founder' also has `connections' with Zima Nutrition and Creative Compounds which they do not care to admit due to him being one of the industry's biggest scumbags EVER. He was even dumb enough to have his name as the owner of the Zima domain

name which has since been changed. 5. It has been proven they flooded this forum with multiple `shills' all using the same proxy server to pimp various products like Swolen."

84. On January 11, 2007 at 6:13 p.m. "deserusan" posted to the www.bodybuilding.com forum board the following libelous statement: "No one is jealous of Syntrax, your reputation in the industry, your pathetic sales, how you lie about your affiliations with ZIMA and Creative Compounds, the fact you guys have put numerous in the people in the hospital with dangerous products, you numerous IP infringements resulting in numerous lawsuits and why ZIMA was started in the first place, etc., etc., etc...."

85. On January 16, 2007 at 9:12 p.m. "deserusan" posted to the Bodybuilding.com Forums the following libelous statement: "and as far as I'm concerned the only thing worthwhile posted there was that Syntrax was indeed responsible for killing a few people. Congrats on being the first company to be directly attributed to the death of a customer..."

86. Gaspari was at fault for publishing such statements.

87. Upon information and belief, Gaspari has made other similar statements on the Bodybuilding.com Forums.

### **Thermolife**

88. Thermolife is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

89. Thermolife utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

90. Upon information and belief, two said representatives who use the handles "Danes" and "Truth Speaker" were acting within the scope and course of their representation for Thermolife in making such posts.

91. On September 26, 2006 at 6:53 a.m. "Danes" posted to the Bodybuilding.com Forums the following libelous statement: "Don't worry, I believe syntrax will be better without a big liar Derek..."

92. On July 9, 2007 at 12:06 p.m.. "Truth Speaker" posted to the Bodybuilding.com Forums the following libelous statement: "SI03 and Syntrax can suck my ass! The Truth has Spoken."

93. On December 11, 2006 at 7:27 p.m. "Truth Speaker" posted to the Bodybuilding.com Forums the following libelous statement: "...Instead of answering a possible customers question in the above post (Dr. Pepper) about one of your products, you reply to my comments about your companies clear cut lies regarding infringing on the simmondsin patent, with gibberish none-the-less...You are a good fit for Syntrax..."

94. On December 9, 2006 at 2:50 p.m. "Truth Speaker" posted to the Bodybuilding.com Forums the following libelous statement: "Skirting, that is their style. Simmondsin has a patent on it too and Syntrax does not buy it from the patent holders nor are they licensed to sell it. SkirtTrax!"

95. Thermolife was at fault for publishing such statements.

96. Upon information and belief, Thermolife has made other similar statements on the Bodybuilding.com Forums.

**SAN**

97. SAN is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

98. SAN utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

99. Upon information and belief, one said representative who uses the handle “musclescientist” was acting within the scope and course of his or her representation for SAN in making such posts.

100. On January 16, 2004 at 2:34 p.m. "musclescientist" posted to the Bodybuilding.com Forums the following libelous statement: "You are obviously a Syntrax pimp. Why don't you have Cornholio stand up for himself? I know at least a half a dozen lawyers who want to crucify him for his reckless behavior."

101. SAN was at fault for publishing such statements.

102. Upon information and belief, SAN has made other similar statements on the Bodybuilding.com Forums.

**Unique**

103. Unique is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

104. Unique utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

105. Upon information and belief, one said representative who uses the handle “griedel” was acting within the scope and course of his or her representation for SAN in making such posts.

106. On August 26, 2007 at 9:32 p.m. "gfriedel" posted to the Bodybuilding.com Forums the following libelous statement: "You know what EMIS, the more and more I read your posts, the more and more evident it becomes that Syntrax is one of the shadiest companies I have seen in the industry! ! !"

107. On November 21, 2007 at 8:50 p.m. "gfriedel" posted to the Bodybuilding.com Forums the following libelous statement: "You know what, this looks like the



list of people who posted in the Boycott Syntrax thread that leonidas started. This is the worst fu\*kin company in business ANYWHERE!"

108. Unique was at fault for publishing such statements.

109. Upon information and belief, Unique has made other similar statements on the Bodybuilding.com Forums.

**EST**

110. EST is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

111. EST utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

112. Upon information and belief, one said representative who uses the handle "Dedicatedforlif" was acting within the scope and course of his or her representation for EST in making such posts.

113. On February 3, 2008 at 4:46 p.m. "Dedicatedforlif" posted to the Bodybuilding.com Forums the following libelous statement: "Product is fine from what I know...but their morals are so poor that I will not respect them...bb.com has even continued to sell their products yet syntrax CONTINUES to sue them in court! I'm sorry but bodybuilding.com>Syntrax TIMES INFINITY!"

114. On February 3, 2008 at 4:38 p.m. "Dedicatedforlif" posted to the Bodybuilding.com Forums the following libelous statement: "Where have you been? Great choice with the torrent and vpx...but I refuse to buy ANYTHING from Syntrax after what they did to bodybuilding.com."

115. EST was at fault for publishing such statements.

116. Upon information and belief, EST has made other similar statements on the Bodybuilding.com Forums.

**Palo Alto**

117. Palo Alto is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

118. Palo Alto utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

119. Upon information and belief, one said representative who uses the handle "BuckeyeMuscles" was acting within the scope and course of his or her representation for Palo Alto in making such posts.

120. On October 20, 2007 at 12:24 p.m. "BuckeyeMuscle" posted to the Bodybuilding.com Forums the following libelous statement: "Syntrax is a shady company is currently suing Bodybuilding.com and some of its members (including myself). Do not support them."

121. On March 11, 2008 at 11:31 a.m. "BuckeyeMuscle" posted to the Bodybuilding.com Forums the following libelous statement: "Their best flavor is LAWSUIT!"

122. On February 17, 2007 at 12:24 p.m. "BuckeyeMuscle" posted to the Bodybuilding.com Forums the following libelous statement: "so your first post is saying that Swole is the ABSOLUTE BEST creatine you've ever had, and now this? SHILL!!!!!!!!!!!!!! Does Syntrax seriously ever stop?"

123. On October 20, 2007 at 12:24 p.m. "BuckeyeMuscle" posted to the Bodybuilding.com Forums the following libelous statement: "we need to start bustin heads of shady companies \*finds the syntrax thread\*"

124. On October 20, 2007 at 12:24 p.m. "BuckeyeMuscle" posted to the Bodybuilding.com Forums the following libelous statement: "I say we go back to talking about Shilltra....err Syntrax"

125. On March 13, 2008 at 8:06 a.m. "BuckeyeMuscle" posted to the Bodybuilding.com Forums the following libelous statement: "But it's cool to work for shell companies of Syntrax. Rock on!"

126. Palo Alto was at fault for publishing such statements.

127. Upon information and belief, Palo Alto has made other similar statements on the Bodybuilding.com Forums.

### **SNS**

128. SNS is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

129. SNS utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

130. Upon information and belief, one said representative who uses the handle "envythahustla" was acting within the scope and course of his or her representation for SNS in making such posts.

131. On September 13, 2006 at 6:29 p.m. "envythahustla" posted to the Bodybuilding.com Forums the following libelous statement: "Honestly, I could care less about Syntrax and all the shills that are affiliated with that company. I just get annoyed with all these bogus ass posts that come out whenever a Syntrax product is mentioned...On that note continue spewing out that garbage about every Syntrax product being better than anything else and maybe some newbie will listen to you and then you have done your job."

132. On August 15, 2006 at 1:06 p.m. "envythahusla" posted to the Bodybuilding.com Forums the following libelous statement: "There goes this Syntrax Shill again recommended Nectar to everyone that mentions WPI."

133. On August 7, 2006 at 9:25 a.m. "envythahusla" posted to the Bodybuilding.com Forums the following libelous statement: "...Syntrax is always attacked for being shady as hell you are just a rep blinded by free Nectar."

134. SNS was at fault for publishing such statements.

135. Upon information and belief, SNS has made other similar statements on the Bodybuilding.com Forums.

**Bodywell**

136. Bodywell is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

137. Bodywell utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

138. Upon information and belief, one said representative who uses the handle "aoba" was acting within the scope and course of his or her representation for Bodywell in making such posts.

139. On February 17, 2007 at 3:31 p.m. "aoba" posted to the www.bodybuilding.com\_forum board the following libelous statement: "The shill interrogation would go like this. \*shill sweats nervously as Jack Bauer starts to drive nails into his fingers\* 'I'm not a shill for syntrax! Really! Swole V3 really does add 30 lbs to your bench! What? Just because I quote the write up and use lame words for feedback doesn't make it weird!' \*nail #2\* `OK...get me a signed pardon from the president of BB.com and I'll give you all the shill names!'"

140. On February 18, 2007 at 1:32 p.m. "aoba" posted to the Bodybuilding.com Forums the following libelous statement: "Lot of hate for various reasons. Immature board rep responses. Shills a.k.a. syntrax people logged in under multiple accounts with blocked ip's. Adipokinetix (original) caused hepatitis in quite a few people in just two weeks from usnic acid. There's more, as I'm sure someone else can fill you in."

141. That Bodywell was at fault for publishing such statements.

142. Upon information and belief, Bodywell has made other similar statements on the Bodybuilding.com Forums.

**ISS**

143. ISS is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

144. ISS utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

145. Upon information and belief, one said representative who uses the handle "Coulaid" was acting within the scope and course of his or her representation for ISS in making such posts.

146. On May 5, 2005 at 1:26 p.m. "Coulaid" posted to the Bodybuilding.com Forums the following libelous statement: "...I would stick w/Ergopharm and primaforce because syntrax has had label claim issues."

147. On May 14, 2005 at 7:19 a.m. "Coulaid" posted to the Bodybuilding.com Forums the following libelous statement: "Syntrax has some label claim problems..."

148. That ISS was at fault for publishing such statements.

149. Upon information and belief, ISS has made other similar statements on the Bodybuilding.com Forums.

**Betancourt**

150. Betancourt is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

151. Betancourt utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

152. Upon information and belief, one said representative who uses the handle "Free Weight Friedel" was acting within the scope and course of his or her representation for Betancourt in making such posts.

153. On November 21, 2007 at 7:50 p.m. "Free Weight Friedel" posted to the Bodybuilding.com Forums the following libelous statement: "Wow, I get home from being in NYC, getting tickets for the parade tomorrow, and I find out I'm on the list!! WTF!!! You know what, this looks like the list of people who posted in the Boycott Syntrax thread that leonidas started. This is the worst fu\*kin company in business ANYWHERE!!!"

154. On October 29, 2007 at 1:21 p.m. "Free Weight Friedel" posted to the Bodybuilding.com Forums the following libelous statement: "My only comment right now is that Syntrax has to be one of the Stupidest companies, not only in the Supplement Industry, but in all industry."

155. On August 26, 2007 at 9:32 p.m. "Free Weight Friedel" posted to the Bodybuilding.com Forums the following libelous statement: "You know what EMIS, the more and more I read your posts, the more and more evident it becomes that Syntrax is one of the shadiest companies I've seen in any industry!!!"

156. That Betancourt was at fault for publishing such statements.

157. Upon information and belief, Betancourt has made other similar statements on the Bodybuilding.com Forums.

**Ergopharm**

158. Ergopharm is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

159. Ergopharm utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

160. Upon information and belief, three said representatives who use the handles "Beejis60", "Patrick Arnold", and "Big\_Spaz" were acting within the scope and course of their representation for Ergopharm in making such posts.

161. On July 8, 2008 at 2:24 p.m. "Beejis60" posted to the www.bodybuilding.com forum board the following libelous statement: "If you search `syntrax sucks', a lot of the top threads will be the ones you are seeking."

162. On October 22, 2008 at 7:13 a.m. "Patrick Arnold" posted to the Bodybuilding.com Forums the following libelous statement: "When I was in prison I met a guy that wanted to kill Derek Cornelius. He said that he almost died after taking lipokinetix or whatever it was called. Lost 25% of his liver. He is out and lives in Chicago now."

163. On April 20, 2008 at 2:27 p.m. "Big\_Spaz" posted to the Bodybuilding.com Forums the following libelous statement: "Good to hear. I have been using GP-Pro (I-Pro) for the past 4 years and see no reason to switch. Especially to a company that acts like Syntrax. But the choice is yours."

164. That Ergopharm was at fault for publishing such statements.

165. Upon information and belief, Ergopharm has made other similar statements on the Bodybuilding.com Forums.

**Nimbus**

166. Nimbus is a direct competitor of SI03 and regularly sells its products through Bodybuilding.com.

167. ISS utilizes the services of representatives who make various posts on the forum board of the internet site of Bodybuilding.com under various pseudonyms.

168. Upon information and belief, one said representative who uses the handle "leonidas300" was acting within the scope and course of his or her representation for ISS in making such posts.

169. On November 22, 2007 at 2:01 p.m. "leonidas300" posted to the Bodybuilding.com Forums the following libelous statement: "And the I would PIITB of Derek Cornelius (I would go homo just this one time because I think it would damage Cornelius more than me) The things I do for this form ☺ ☺."

170. On November 21, 2007 at 10:20 p.m. "leonidas300" posted to the Bodybuilding.com Forums the following libelous statement: "I would never purchase another Syntrax product again, other than that I do not think you have a thing to worry about."

171. On July 12, 2008 at 10:24 a.m. "leonidas300" posted to the Bodybuilding.com Forums the following libelous statement: "Syntrax is the most unethical supplement company that has ever existed. They capture small orphaned children and keep them in pens until they are ground up through a meat processor becoming a main ingredient in their Nectar protein. Syntrax is in collusion with Al-Qiada to poison as many young, physically powerful American men in order to weaken our general population smoothing the way for an upcoming invasion. I swear all of this is



true. Sue me Syntrax I freakin dare you. I am licensed to practice in several federal jurisdictions so take your choice, I will bankrupt you again you shady SOB's."

172. Nimbus was at fault for publishing such statements.

173. Upon information and belief, Nimbus has made other similar statements on the Bodybuilding.com Forums.

**COUNT I – Violation of the Lanham Act § 43(a) – 15 U.S.C. § 1125(a)**

174. Plaintiffs incorporate by reference paragraphs 1 through 173 of the Second Amended Complaint as if fully set forth herein.

175. Defendants have and continue to make false and misleading statements about SI03's products on commercial Internet forums in violation of 15 U.S.C. § 1125(a).

176. Individually and collectively, the statements described above are false or misleading and deceive, confuse, or are likely to confuse, a substantial segment of their intended audience in that they falsely portray SI03's products as dangerous to consumers.

177. Defendants' use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in such commercial postings deceive, or are likely to deceive, a substantial segment of their intended audience as to the nature, qualities, and characteristics of SI03's products.

178. Defendants' use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in such commercial postings cause confusion, or are likely to cause confusion or mistake, as to a substantial segment of their intended audience as to the nature, qualities, and characteristics of SI03's products.

179. Defendants' use of false and misleading statements of fact, false and misleading descriptions of fact, or false and misleading representations of fact in such commercial postings

misrepresent the nature, qualities, and characteristics of SI03's products and commercial activities.

180. Defendants' false and misleading statements in commercial postings have been disseminated to the public at large, which includes customers and potential customers of defendants and SI03 alike.

181. Customers have been actually deceived or confused by defendants' false and misleading statements.

182. The false and misleading statements described above were made by defendants or their authorized agents.

183. Defendants' commercial postings are material in that they are likely to influence the purchasing decision of SI03's current or prospective customers.

184. Defendants' false and misleading statements were, are, and continue to be made in interstate commerce.

185. Defendants' false and misleading statements were, are, and continued to be undertaken in bad faith.

186. Defendants' false and misleading statements were, are, and continued to be made intentionally and willfully with a reckless disregard for the rights of SI03.

187. Defendants' false and misleading statements have resulted and will continue to result in actual or probably injury to SI03.

188. Defendants' false and misleading statements have damaged and will continue to damage SI03's business reputation and goodwill, and it has caused and will continued to cause SI03 to incur money damages.

189. Defendants' false and misleading statements in commercial postings have and are likely to continue to injure SI03 by causing SI03 to lose customers and sales, resulting in business losses in an amount to be determined at trial and that are presently unknown to SI03 but which are believed to be substantial and are accumulating on an ongoing basis.

190. Defendants' acts and omissions have caused and are continuing to cause damage to SI03's business reputation and goodwill and were and continue to be conducted knowingly and willfully by defendants. Therefore, SI03 is entitled to recover (1) defendants' profits, (2) actually money damages sustained by SI03, (3) treble damages as provided under 15 U.S.C. § 1117(a), (4) the costs of the action as provided under 15 U.S.C. § 1117(a), and (5) attorneys' fees as a required result of a finding that this is an exceptional case pursuant to 15 U.S.C. § 1117(a).

**COUNT II – Tortious Interference with Business Expectancy  
or Prospective Business Relationships**

191. Plaintiffs incorporate by reference paragraphs 1 through 190 of the Second Amended Complaint as if fully set forth herein.

192. Through their commercial postings and their false and misleading statements described above, defendants have and continue to interfere with valid business expectancies or prospective business relationships between SI03 and SI03's prospective customers by inducing or otherwise causing a breach of the expectancies or relationships.

193. Defendants' interference with SI03's valid business expectancies or prospective business relationships has been and continues to be intentional, improper, and without justification.

194. Defendants' false and misleading statements in commercial postings have been disseminated to SI03's prospective customers with whom SI03 has valid business expectancies or prospective business relationships.

195. Defendants knew of the valid business expectancies or prospective business relationships between SI03 and SI03's prospective customers when defendants initiated their campaign of false postings and made the false and misleading statements described above.

196. Defendants' false and misleading statements have caused damage to SI03 and are likely to continue to result in damage to SI03.

**COUNT III – Injurious Falsehood**

197. Plaintiffs incorporate by reference paragraphs 1 through 196 of the Second Amended Complaint as if fully set forth herein.

198. Defendants' publication of false and misleading statements about SI03 caused and continues to cause SI03 pecuniary loss.

199. Defendants intended for the publication of their false statements to result in harm to the interests of SI03 having a pecuniary value, or defendants either recognized or should have recognized that the publication of its false statements were likely to result in harm to the interests of SI03 having a pecuniary value.

200. Defendants knew that their published statements in its commercial advertisements were and continue to be false, or defendants acted in reckless disregard of the truth or falsity of their published statements.

201. Defendant's publication of false and misleading statements in commercial postings were, and continue to be, substantial factors in bringing about SI03's pecuniary losses.

202. Defendants' false and misleading statements in commercial postings have and are likely to continue to injure SI03 by causing SI03 to lose sales, resulting in business losses in an amount to be determined at trial and that are presently unknown to SI03 but which are believed to be substantial and are accumulating on an ongoing basis.

203. Defendants' false and misleading advertising has caused and will continue to cause SI03 to incur monetary damages.

**COUNT IV - Defamation**

204. Plaintiffs incorporate by reference paragraphs 1 through 203 of the Second Amended Complaint as if fully set forth herein.

205. Through their continued scheme and publication of false and misleading statements as described above, defendants have and continue to defame SI03 causing actual harm to SI03's business reputation.

206. Defendants published their commercial postings described above.

207. Defendants' commercial postings identify SI03 and include defamatory statements about SI03.

208. Defendants' commercial postings include material, false statements about SI03.

209. Defendants' scheme was implemented with a conscious intent to publish the false and defamatory statements.

210. Defendants' defamatory and false statements were published with actual malice, and with knowledge that the statements were false.

211. Defendants' defamatory and false statements were negligently published.

212. Defendants' defamatory and false statements caused and continue to cause actual reputational harm to SI03.

213. Upon information and belief, defendants' defamatory and false publications directly caused and continue to cause the loss of customers or a general diminution in SI03's business.

**COUNT V - Libel**

214. Plaintiffs incorporate by reference paragraphs 1 through 213 of the Second Amended Complaint as if fully set forth herein.

215. Defendants' statements tended to expose plaintiffs to hatred, contempt or ridicule and/or deprive the plaintiffs of the benefit of public confidence and social associations.

216. Plaintiffs' reputations were thereby damaged.

217. The conduct of defendants was outrageous because of defendants' evil motives or reckless indifference to the rights of others.

**COUNT VI - Civil Conspiracy**

218. Plaintiffs incorporate by reference paragraphs 1 through 217 of the Second Amended Complaint as if fully set forth herein.

219. Defendants conspired with each other to post libelous statements on the Bodybuilding.com Forums .

220. Defendants conspired with each other to tortiously interfere with the reasonable business expectancies of the plaintiffs.

221. Defendants had an unlawful and improper motive and objective.

222. Defendants posted or allowed to be posted said libelous statements.

223. Plaintiffs sustained damaged to their reputation as a direct and proximate result of the conspiracy by and among the defendants.

224. The conduct of defendants was outrageous because of defendants' evil motives or reckless indifference to the rights of others.

WHEREFORE Plaintiffs Derek W. Cornelius and SI03, Inc. pray judgment against defendants and respectfully request the following:

- a. An order requiring defendants to compensate SI03 for its corrective advertising;
- b. An order awarding plaintiffs damages from defendants in an amount to be determined at trial, but no less than: (1) defendants' profits, (2) plaintiffs' lost profits, (3) any damages sustained by plaintiffs, and (4) the costs of the action;
- c. Treble actual damages pursuant to 15 U.S.C. § 1117(a);
- d. A finding pursuant to 15 U.S.C. § 1117(a) that this is an exceptional case and an order awarding plaintiffs attorneys' fees, expenses, and costs as allowed by law;
- e. Punitive damages;
- f. Special damages;
- g. Pre-judgment and post-judgment interest; and
- h. Such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Law Offices of Matthew Rosenberg, LLC

By: /s/ Matthew A. Rosenberg  
Matthew A. Rosenberg, #69792  
36 Four Seasons Ctr., #116  
St. Louis, MO 63017  
(314) 256-9699  
(314) 786-0532 Fax

*Attorneys for Plaintiffs*